

drawings were objected to due to missing reference numerals and for not showing every feature of the invention specified in the claims. Reconsideration of this application is respectfully requested in view of the amendments and/or remarks provided herein.

#### Objection to the Drawings

1. The drawings were objected to due to missing reference numerals and for not showing every feature of the invention specified in the claims. In particular with respect to the reference numerals, the Examiner noted that reference numerals "210," "510," "520," "530," and "265" were missing from the drawings, but were referenced in the specification. With respect to the failure of the drawings to show every feature of the invention specified in the claims, the Examiner asserts that the subject matter of claim 2 is not shown in the drawings.

With respect to the missing reference numerals, Applicant encloses herewith proposed drawing corrections to FIGs. 2 and 5 showing, in red ink, reference numeral "210" in FIG. 2 and reference numerals "520," "530," and "265" in FIG. 5. Applicant has removed reference numeral "510" from the specification. Applicant also encloses herewith a separate letter to the draftsman in accordance with MPEP § 608.02(r) requesting that the draftsman review the proposed drawing corrections. Applicant requests that the filing of new formal drawings be deferred until the Examiner indicates that the application is in condition for allowance.

With respect to the Examiner's objection to the drawings for not showing every feature recited in claim 2, Applicant respectfully disagrees. Claim 2 (and new claim 12) state that the bathing device is selected from a hot tub, a spa, a bath, a whirlpool bath and a pool. FIGs. 1-4 clearly show cross-sectional and top, partial views of a hot tub, spa, bath or whirlpool bath. If the Examiner does not believe that the bathing device depicted in FIGs. 1-4 (generally referred to throughout most of the specification as a "tub") is anything other than one of the foregoing bathing devices, Applicant would welcome the Examiner's explanation. Applicant does not show an entire hot tub, spa, bath, whirlpool bath or pool because one of ordinary skill in the art could easily adapt that which is shown in partial views in Applicant's specification to an entire

device. 35 U.S.C. § 113 requires an applicant to furnish a drawing “where necessary for the understanding of the subject matter sought to be patented.” Applicant has clearly met this burden by furnishing four drawings that depict top and cross-sectional views of a single person and multi-person (FIG. 4) tub. One of ordinary skill in the art would readily recognize, based on the depicted drawings and the disclosure of the specification (see, e.g., page 4, lines 18-19 and line 2 of the Abstract), the scope of Applicant’s invention. A separate drawing of each listed bathing device does not seem “necessary for an understanding of the subject matter sought to be patented.” Rather, Applicant submits that the originally filed drawings are more than sufficient to provide a person of ordinary skill in the art with adequate information to enable such person to make and use the present invention as recited in claim 2.

Therefore, Applicant submits that the present drawings meet the requirements of 35 U.S.C. § 113 and 37 C.F.R. § 1.83(a) with respect to the subject matter recited in claim 2 (and new claim 12) and respectfully requests that the Examiner withdraw his objection to the drawings under 37 C.F.R. § 1.83(a).

#### Objection to the Disclosure

2. The disclosure was objected to because of an informality on page 8, line 4. In particular, the Examiner noted that the word “three” should be replaced with the word “two.” Applicant has herein amended the specification as requested by the Examiner. Accordingly, in view of such amendment, Applicant requests that the Examiner withdraw his objection to the disclosure.

#### Objection to the Specification

3. The specification was objected to as failing to provide proper antecedent basis for the claimed subject matter. In particular, the Examiner asserts that proper antecedent basis for the subject matter of claim 2 could not be found in the specification. Applicant disagrees.

Applicant submits that, as noted in Section 1 above, support for the recitations of claim 2 (and new claim 12) can be found at page 4, lines 18-19 and in the Abstract at line 2 of Applicant's originally filed specification. Page 4, lines 18-19 of Applicant's specification states that "[a]nother advantage of the invention is that the tub can be a hot tub, spa, whirlpool bath or pool." Line 2 of the Abstract states that "[t]he bathing device may be a bath tub, hot-tub, spa, whirlpool, or pool . . . ." Based on the foregoing recitations of Applicant's originally filed specification, Applicant respectfully submits that Applicant's specification provides proper antecedent basis for the subject matter recited in claim 2 and requests that the Examiner withdraw his objection to the specification.

Rejection under 35 U.S.C. § 102(b)

4. Claims 1-5 were rejected under 35 U.S.C. § 102(b) as being anticipated by Jacuzzi et al. (hereinafter "Jacuzzi"). In particular, the Examiner asserts that Jacuzzi discloses a bathing device that includes a bottom (13), an armrest (21), an orifice (25), and a water jet (25) as recited in claims 1-5. Applicant has herein amended claim 1 to more clearly distinguish the recitations of said claim over the teachings and suggestions of Jacuzzi. In particular, Applicant has included the limitation that the orifice in the armrest be sized and shaped to direct a flow of pressurized fluid and/or pressurized air onto at least one of a hand, a finger and a forearm of the bather. Neither Jacuzzi nor any of the other cited references provide any comparable disclosure or suggestion.

Jacuzzi simply describes jet assemblies (25) in the vertical side walls (23) of armrests (21) for the purpose of providing general hydromassage action to a user sitting in the tub (1) (see col. 1, lines 40-42 and col. 2, lines 1-4). Further, Jacuzzi states that the armrests (21) simply permit the user to sit in a relaxed posture (see col. 2, lines 1-2). Jacuzzi wholly fails to disclose or suggest that any jet assembly (25, 31) directs a flow of pressurized fluid and/or pressurized air onto a hand, a finger and/or a forearm of the bather as now recited in claim 1.

Therefore, for the foregoing reasons, Applicant submits that the recitations of claims 1, 2, 4, and 5 (claim 3 having been canceled herein) are not disclosed or suggested by Jacuzzi and respectfully requests that claims 1, 2, 4, and 5 may now be passed to allowance.

Rejection under 35 U.S.C. § 103(a)

5. Claims 1-3 and 6 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Savage and Jacuzzi. In particular, the Examiner states that Savage discloses a bathing device containing all the claimed elements except for an armrest. The Examiner then relies on Jacuzzi to disclose a bathing device with an armrest. The Examiner concludes that the recitations of claims 1-3 and 6 would have been obvious to one of ordinary skill in the art in view of the disclosures of Savage and Jacuzzi.

As noted above, Applicant has amended claim 1 to require that the orifice in the armrest be sized and shaped to direct a flow of pressurized fluid and/or pressurized air onto at least one of a hand, a finger and a forearm of the bather. As discussed in detail above, Jacuzzi fails to disclose or suggest an armrest with such a sized and shaped orifice. Because the Examiner admits that Savage fails to disclose any armrest at all, Savage also fails to disclose or suggest an armrest with such a sized and shaped orifice. Therefore, since neither Jacuzzi nor Savage, whether taken individually or as a whole, disclose or suggest a bathing device that contains an armrest as recited Applicant's claims, Applicant submits that claims 1, 2 and 6 (claim 3 having been canceled herein) are not obvious in view of Savage and Jacuzzi. Accordingly, Applicant respectfully requests that claims 1, 2 and 6 may now be passed to allowance.

Other Amendments to the Claims and Specification

6. In addition to the amendments to claim 1 discussed above, Applicant has herein amended claims 2, 4, and 5 to correct typographical errors, grammatical errors, and other minor informalities. Further, Applicant has amended claim 1 to broaden certain aspects of said claim. Applicant has also amended various locations of the specification to correct typographical errors,

insert/correct reference numerals, and correct other minor informalities. Applicant submits that no new matter has been entered into the specification by any of these amendments.

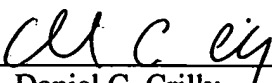
#### New Claims

7. Applicant has herein added new claims 7-15 directed to a bathing device that includes at least one armrest having one or more jets positioned in corresponding orifices of the armrest to direct a flow of water and/or air onto a hand, a finger and/or a forearm of the bather. Claim 15 further recites a bathing device that includes one or more air jets in the armrest to direct a flow of air onto the hand, finger and/or forearm of the bather and one or more fluid (e.g., water) jets in the armrest to direct a flow of fluid within the bathing device. As discussed above with respect to claim 1, none of the cited references disclose or suggest a bathing device with such an armrest. Claims 9-11 further recite single and multiple-person bathing devices as supported by the disclosure in Applicant's originally filed specification with respect to FIGs. 2 and 4. Claims 13 and 14 require the armrest jet(s) and/or orifice(s) to be positioned to direct the flow of water or air upward onto a forearm or hand of the bather. With the cancellation of claim 3 and the addition of claims 7-15, fourteen claims remain pending in the present application, three of which are independent. Applicant originally paid for examination of up to 20 claims, three of which could be independent. As a result, no additional fee is required for examination of newly presented claims 7-15.

8. The Examiner is invited to contact the undersigned by telephone, facsimile or email if the Examiner believes that such a communication would advance the prosecution of the instant application. Please charge any fees associated herewith, including extension of time fees (if applicable), to the undersigned's Deposit Account No. 50-1111.

Respectfully submitted,

By: \_\_\_\_\_

  
Daniel C. Crilly  
Attorney for Applicant  
Reg. No.: 38, 417  
BRINKLEY, MCNERNEY,  
MORGAN, SOLOMON & TATUM,  
LLP  
200 East Las Olas Blvd., Suite 1900  
Ft. Lauderdale, FL 33301  
Telephone: (954) 522-2200  
Fax: (954) 522-9123  
Email: [dcc@brinkleymcnerney.com](mailto:dcc@brinkleymcnerney.com)

**VERSION OF AMENDED CLAIMS WITH MARKINGS**  
**TO SHOW CHANGES MADE**

1. (Once Amended) A device for bathing comprising:

[a water tight vessel sufficiently large to hold at least one bather;  
said tub having a bottom;]

at least one armrest [connected to the vessel] positioned at a height to support at least one arm [or both arms] of a [said at least one] bather; and

at least one orifice defined by said at least one armrest, the at least one orifice being sized and shaped to direct [permit] a flow of at least one of pressurized fluid and pressurized air onto at least one of a hand, a finger and a forearm of the bather [there through].

2. (Once Amended) The device of claim 1, said device [tub] selected from the following:

a hot tub, a spa, a bath, a whirlpool bath, and a pool.

4. (Once Amended) The device of claim 1, wherein said fluid is water.

5. (Once Amended) The device of claim 1, further comprising at least one water jet disposed in said at least one orifice.

**VERSION OF AMENDED SPECIFICATION WITH MARKINGS**  
**TO SHOW CHANGES MADE**

Paragraph commencing at page 7, line 23 and ending at page 8, line 4:

FIG. 2 shows a view of a seating area in an embodiment slightly different from that shown in FIG. 1. The tub itself is shown as 210. This embodiment has built-in headrests 220 to add to user comfort. Orifices 230 direct water under pressure onto the user's body parts. If the user is seated as in FIG. 1, the water from these orifices 230 provides a soothing back massage. Here, two [three] columns of orifices 230 are shown, but there can be any number of orifices 230 and these orifices 230 can be of any size. The seat 240 is shown flat, but the seat 240 could be given almost any contour consistent with comfort of the user. Orifices 250 in the seat 240 permit air under pressure to be emitted at the user providing soothing massage or therapy to the user's back. The two armrests 260 are shown with air orifices 270 which provide air under pressure to the user's hands, fingers, and forearms depending on how the user is positioned.

Paragraph commencing at page 8, line 17 and ending at page 8, line 20:

FIG. 4 shows a tub 410 with three seating areas 420. All parts thereof are shown in other figures. The significance of this embodiment is that single-seating areas are shown joined so that the water flows through the ducts 440 in a continuous path. Water escapes the ducts 440 through the orifices, such as those specified for FIGs. [FIG.'s] 1, 2, and 3.

Paragraph commencing at page 8, line 21 and ending at page 8, line 23:

FIG. 5 shows a detail of one embodiment of a jet 263 [510]. The jet 263 has a nozzle 520 and a body 530. Jets are commodities. Jets are fitted into orifices and vary pressure and volume of water flow according to well-known principles of physics.



Paragraph commencing at page 9, line 22 and ending at page 10, line 4:

Alternatively, armrest 260 may be provided with air jets 270 only, such that water jet 263 is omitted. Conversely, armrest 260 may be provided with a water jet 263 only, either in the side wall 262 or the armrest surface 264. Any combination of air and/or water jets at any positions on armrest 260 is contemplated to be within the scope [cope] of my invention, since it has not been heretofore proposed to provide armrests in tubs of this nature having water and/or air therapy features incorporated therein.